Scott. II-87—40,000—27-10-53.

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Public Works (1953) Department.

M/s. SERIES.

G.O. No. 3509

M 3509

Dated 28-8-1953.

FOR MYSORE STATE

[Despatch Abstract.]

Rules - Indian Tolls Act 1857 - Collec of tolls on roads and bridges - Amendm Issued.

GOVERNMENT OF MADRAS
(Abstract)
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RULES - Indian Tolls Act, 1857 - Collection of tolls on roads and bridges - Amendment - Issued.
-v-v-v-v-v-v-v-v-v-v-v-v-v-v-v-v-v-v-v-v-v-v-v-v-v-v-v-v-v-v-v-v-v-v-v-v-v-v-v-v-v-v-v-v-v-v-v

Public Works Department

G.O.Ms.No. 3509 — Dated 28th August 1953
Read the following:

G.O.No.3630, Local Administration dated 1st December 1942
G.O.No.1694, Local Administration dated 10th May 1943
G.O.No.3243, Public Works dated 20th July 1952

From the Chief Engineer (Highways) No.23338 J1/51 HR dated 30th January 1952.
From the Board of Revenue BP.Rt.1303 dated 29th February 1952.
From the Chief Engineer (Hi hways) 20173 J1/52-1, dated 23rd June 1952.
From the Board of Revenue Misc.794 dated 16th July 1952
From the Board of Revenue L.Dis.L.13256/52/dated 16th January 1953.

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O R D E R:

Under the Madras Roads and Bridges Tolls Rules, 1942 published with Local Administration Department, Notification, dated the 1st December 1942, at pages 3 to 9 of the Rules Supplement to Part I - A of the Fort St. George Gazette, dated the 26th January, 1943 as subsequently amended, the Board of Revenue shall, subject to the control of the Government, supervise the collection of tolls levied in respect of roads and bridges and the Collector of the district concerned shall carry out the provisions of the Indian Tolls Act 1851, and the rules framed thereunder subject to the control and direction of the Board of Revenue and the orders of the Government. It was suggested that in view of the formation of the Highways Department from 1st April 1946 for attending to road works both under the Government and the District Boards, the work of supervision over the collection of tolls also might be entrusted to that Department. The Board of Revenue was requested to examine this suggestion in consultation with the Chief Engineer (Highways) and to submit draft amendments, to the Madras Roads and Bridges Tolls Rules, 1942, if necessary for the consideration of the Government.

2. The Chief Engineer (Highways) has reported that the work of leasing out the right of collection of tolls is a non-technical one which, if attended to by the officers of the Highways Department, will tell badly upon their legitimate work. The Board of Revenue has agreed with the Chief Engineer(Highways) and recommended the continuance of the existing arrangements. The Government accept the recommendation of the Board of Revenue and direct that the Revenue Department should continue to supervise and control the collection of tolls levied in respect of roads and bridges.

3. The Board of Revenue has also proposed in consultation with the Chief Engineer (Highways), certain amendments to the Madras Roads and Bridges Tolls Rules, 1942, The Government have examined the amendments suggested and they pass the following orders:

(1) Substitution of the word "State" for the word 'Province'

in the Madras Roads and Bridges Tolls Rules, 1942: The Chief Engineer (Highways) and the Board of Revenue have suggested that the word "State" may be substituted for the work "Province" wherever it occurs in these rules. Under the provisions of paragraph 4(i) of the Adaptation of Laws Order, 1950, as subsequently amended, the expression 'Province' wherever it occurs in the rules made under a Provincial Law, should be read as 'State'. No separate amendment substituting the word "State" for 'Province' need therefore be issued.

(ii) Rule 3: The Chief Engineer (Highways) has stated that as tolls are to be levied only on new road and bridge works commenced on and after 1st April 1946 according to the orders in G.O.No.1169 Public Works dated 29th March 1949, the date on which the rules came into force may be altered from 1st January 1943 to 1st April 1946.

The amendment proposed is not necessary in view of the fact that the rules relate only to the method of collection of tolls. If actually no tolls had been levied upto 1st April 1946, these rules should be considered to have remained a dead letter till then.

(iii) Rule 11: Under this rule the right to collect tolls should be sold for each bridge or road or section of the road in the month of January or as soon thereafter as possible before the commencement of the year to which the sale relates. Presuming that January has been fixed because the rules were given effect to from January 1943, the Chief Engineer (Highways) has suggested that the right of collecting tolls may be sold for the official year. The Board of Revenue has agreed with the Chief Engineer (Highways).

The presumption of the Chief Engineer (Highways) is not correct. The intention of the rule is that the sale should be held well in advance of the commencement of the lease year. The year referred to in the rule means only the financial (i.e. official) year according to the definition in rule 4 (n) of the rules ~~xnx~~. The rule does not therefore require any amendment.

(iv) Responsibility of lessees in respect of toll bridges:

The Chief Engineer (Highways) has proposed the inclusion of a provision in the rules to make the lessee responsible for reporting to the authorities of the Highways Department when a bridge is in danger.

Clause 2 of the existing form of the lease deed ~~prescrib~~ prescribed by the Board of Revenue makes the lessee responsible for the safety and protection of the bridge so far as it lies in his power and also requires him to report to the nearest Revenue Divisional Officer or an officer of the Public Works Department any danger to the bridge which may come to ~~x~~his knowledge. In view of this condition in the lease deed, it is not necessary to make any provision in this regard in the rules as well.

At present road bridges are in charge of the Highways Department, and not the Public Works Department.

In the circumstances, the Government direct that the words 'Highways Department -" be substituted for the words 'Public Works Department" occuring in clause (2) of the form of lease deed.

(v) Rates of Tolls The Chief Engineer (Highways) has suggested that the rates of tolls prescribed by the Government may be incorporated in the Madras Roads and Bridges Tolls Rules, 1942. The Board of Revenue has agreed with the Chief Engineer (Highways). These rules which relate to the method of collection of tolls have been framed under section 9 of the Indian Tolls Act, 1851 as amended, whereas the rates of tolls have been prescribed under section 2(2) of the Act.

Under section 2(2) of the Indian Tolls Act, 1851 as amended by Madras Act VI of 1938 and XIV of ~~xxiix~~ 1942 it is enough if the rates of tolls are notified by the State Government in the Official Gazette. The rates approved by the Government have already been published, in the Fort St. George Gazette. There is therefore no need to include the rates of tolls in the Madras Roads and Bridges Tolls Rules, 1942.

(vi) Rule 37: The note under rule 37 contains a reference to the Government of India Act, 1935. As the Government of India Act, 1935 is no longer in force, it is proposed to modify the Note under this rule as specified in the Appendix to this order.

4. The appended notification will be published in the Fort St. George and in all District Gazettes in English and in the language or languages of the districts concerned.

5. The senior Translator to Government is requested to have the notification translated into Tamil, Telugu, Malayalam, Kannada and Hindustani and to forward copies of translation to the Superintendent, Government Press for publication in the District Gazettes.

(BY ORDER OF THE GOVERNOR OF MADRAS)

V.VENKATRAYUDU,
DEPUTY SECRETARY TO GOVERNMENT.

To the Board of Revenue.
To the Chief Engineer (Highways)
To All Collectors
To the President, District Boards- (Visakhapatnam & Srikakulam)
To the Special Officers of other District Boards.
To the Executive Authorities of Municipal Councils through Chairman
(~~Chairman~~) The Inspector of Local Boards. / & Municipal Councils and
To the Examiner of Local Fund Accounts.
To the Accountant-General, Madras.
To the Local Administration Department.
To the Finance Department.
To the Superintendent, Government Press for publication in the Fort St. George Gazette.
To the Senior Translator to Government.
Copy to Andhra State.
Copy to Mysore State.

True Copy / Forwarded / By Order

K. V. Narayanaswami
SUPERINTENDENT

Lvn/-31.8

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APPENDIX

In exercise of the powers conferred by section 9 of the Indian Tolls Act, 1851 (Central Act VIII of 1851), as amended by the Madras Tolls and Motor Vehicles Taxation (Amendment) Act, 1938 (Madras Act VI of 1938), the Governor of Madras hereby makes the following amendment to the Madras Roads and Bridges Tolls Rules 1942, published with the Local Administration Department Notification, dated the 1st December 1942, at pages 3 to 9 of the Rules supplement to Part I-A of the Fort St. George Gazette, dated the 26th January 1943, as subsequently amended.

AMENDMENT.

In the said rules, for the Note under rule 37 the following Note shall be substituted namely:-

"NOTE: The lease-deed shall be executed by the person authorised to execute the same on behalf of the Governor of Madras under Article 299(1) of the Constitution of India and also by the lessee."

(True Copy)

K.V.Narayanaswami
Superintendent.

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